

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER 93-0180 CSET  
Controlled Substance Excise Tax  
For Tax Period December 15, 1992**

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**ISSUE**

1. **Controlled Substance Excise Tax – Imposition**

**Authority:** IC 6-7-3-5.

The taxpayer protested the assessment of Controlled Substance Excise Tax.

**STATEMENT OF FACTS**

The taxpayer was arrested for dealing and possession of an illegal substance. The substance was tested and was in fact a controlled substance, marijuana. The net weight was 172.52 grams. The Indiana Department of Revenue served the taxpayer with the CSET assessment and jeopardy demand notice on January 15, 1993. The tax warrants were issued to the sheriff for collection, no bank levies were issued at that time. Taxpayer filed a protest to the assessment on February 5, 1993.

**DISCUSSION**

1. **Controlled Substance Excise Tax – Imposition**

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of marijuana in the State of Indiana. The taxpayer stated that the case against him had been dismissed based on mistaken identity. The prosecutor in Fulton County was

contacted and affirmed the taxpayer's statement. The taxpayer provided the department with a copy of his work time report as proof that he/she was at work at the time of the alleged possession. The taxpayer was arrested based on a probable cause affidavit filed by a police informant. There is no evidence that the taxpayer was in possession of marijuana or any other illegal substance at the time of his arrest.

### **FINDINGS**

The taxpayer's protest is sustained.